

**REMARKS**

Reconsideration and allowance of this application are respectfully requested. Claims 1, 3, 38 and 39 have been amended. In particular, claims 1 and 3 have been amended to further recite a *variable selection* of the predetermined wavelength and claims 38 and 39 have been rewritten in independent form. New claims 40 and 41 have been added. Claims 35 and 36 have been canceled. Claims 1-34 and 37-41 are now pending in the application. The rejections are respectfully submitted to be obviated in view of the amendments and remarks presented herein.

**Claim Objections**

Claim 35 has been objected to under 37 C.F.R. § 1.75 as allegedly being a substantial duplicate of claim 17. Claim 35 has thus been canceled.

**Rejection Under 35 U.S.C. § 112, Second Paragraph**

Claims 1-34 and 37-39 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The rejection is respectfully traversed.

Applicant submits that the term “sizable cross sectional area” is not indefinite, and refer the Examiner to page 12, lines 3-6 of the specification for support of the claim term. The specification provides a standard for ascertaining the requisite degree, with which one of ordinary skill in the art would be reasonably apprised of the scope of the invention. Therefore, reconsideration and withdrawal of the rejection of claims 1-34 and 37-39 under 35 U.S.C. § 112, second paragraph are respectfully requested.

**Rejection Under 35 U.S.C. § 102(a) - Johansen<sup>1</sup>**

Claims 1-4, 11 and 12 have been rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Johansen (U.S. Publication Number US 2003/0048452). The rejection is respectfully traversed.

Applicant's claimed invention relates to a method which measures the distribution of optical intensities on the cross section of a light beam of a wavelength selected using attenuated total reflection, wherein selection of a collimated light beam having a predetermined wavelength includes a variable selection of the predetermined wavelength of the collimated light beam.

The disclosure of Johansen does not anticipate the claimed invention. Particularly, while Johansen's figures 1a and 5 show a multi-wavelength imaging SPR setup and a multi-detector arrangement, there is no teaching of all the elements of variably selecting a predetermined wavelength of the collimated light beam, as Applicant claims. The color filters (560a, 560b and 560c) filter a set wavelength of light corresponding to each filter's own characteristics. The color filters filter light in the same way as used in commercial 3 CCD video cameras, and are either narrow and non-overlapping in wavelength, or broad with overlapping wavelengths (paragraph [0071]). However, the filters are not variable because they are each permanently set to filter one specific wavelength. Examiner has also admittedly described the filters as "imaging specifically three different wavelengths" (Office Action page 7 - paragraph 10). At least by virtue of the aforementioned differences, Applicant's claimed invention distinguishes over

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<sup>1</sup> Applicant again notes that Johansen does not qualify as prior art under 35 U.S.C. § 102(a).

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Application No. 10/669,651  
Attorney Docket No. Q77613

Johansen. Claims {2} and {4, 11 and 12} are dependent claims including all of the elements of independent claims 1 and 3, respectively, which, as established above, distinguishes over Johansen. Therefore, Johansen does not anticipate claims 2, 4, 11 and 12 for at least the aforementioned reasons as well as for their additionally recited features. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(a) are respectfully requested.

**Rejection Under 35 U.S.C. § 103(a) – Johansen in view of Salafsky**

Claims 5-10 and 13-16 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Johansen in view of Salafsky (U.S. Publication Number US 2002/0094528 A1). The rejection is respectfully traversed.

Claim 3 has been distinguished over Johansen, as discussed above. Salafsky discloses in figure 1, a nonlinear optical apparatus used to detect reactions between surface-attached probes and labeled targets, or used to perform imaging of a surface. A mirror (25) is used to direct a light beam onto a silicon sample surface (30) mounted on an x-y translation stage (35) at a desired angle. However, Salafsky does not remedy the deficiencies of Johansen. Salafsky also does not disclose the variable selection of a predetermined wavelength of the collimated light beam. At least by virtue of the aforementioned differences, the invention defined by Applicants' claim 3 is patentable over Johansen in view of Salafsky. Claims 5-10 and 13-16 are dependent claims including all of the elements of independent claim 3, which, as established above, distinguishes over Johansen in view of Salafsky. Therefore, claims 5-10 and 13-16 are patentable over Johansen in view of Salafsky for at least the aforementioned reasons as well as

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Application No. 10/669,651  
Attorney Docket No. Q77613

for their additionally recited features. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) are respectfully requested.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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